P23941.P0PE

GREENBLUM & BERNSTEIN, P.L.C.
Intellectual Property Causes
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Reston, VA 20191
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Attorney Docket No. _P23941_

In re application of: R. MEYER et al.

Mail Stop Amendment
Group Art Unit: 1731

Application No.   : 10/645,606

Filed   : August 22, 2003

Examiner: C. Irving

For   : PROCESS AND DEVICE FOR ASSEMBLING GROUPS OR FILTER SEGMENTS

Mail Stop Amendment
Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314
Sir:

Transmitted herewith is an **Election with Traverse** in the above-captioned application.

____ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.

____ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.

____ A Request for Extension of Time.

_X_ No additional fee is required.

The fee has been calculated as shown below:

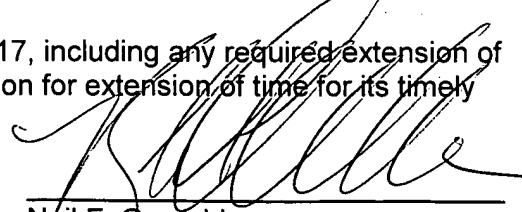| Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 34	*34	0	x 9=	$	x 18=	$0.00
Indep. Claims: 6	**6	0	x 44=	$	x 88=	$0.00
Multiple Dependent Claims Presented			+150=	$	+300=	$0.00
Extension Fees for ____ Month(s)				$		$0.00
			Total:	$	Total:	$0.00

* If less than 20, write 20
** If less than 3, write 3

____ Please charge my Deposit Account No. 19-0089 in the amount of $_____.

_N/A_ A check in the amount of $_____ to cover the *filing/extension* fee is included.

_X_ The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

    _X_ Any additional filing fees required under 37 C.F.R. 1.16.

    _X_ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 C.F.R. 1.136(a)(3)).

Neil F. Greenblum
Reg. No. 28,394

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DEC 2 1 2005

Customer No. **07055**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	: Ralph MEYER et al.	Group Art Unit: 1731
Appl. No.	: 10/645,606	Examiner: C. IRVING
Filed	: August 22, 2003	Confirmation No: 9475
For	: PROCESS AND DEVICE FOR ASSEMBLING GROUPS OR FILTER SEGMENTS	

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop _____
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Examiner's restriction requirement of September 21, 2005, the time set for response being three months from the mailing date from the U.S. Patent and Trademark Office, i.e., December 21, 2005, Applicants hereby elect the invention of Group II, including claims 15 – 20 and 31 – 34. The above election is made with traverse for the reasons set herein below:

In the Official Action of September 21, 2005, the Examiner indicated that all claims (1 – 34) were subject to restriction under 35 U.S.C. § 121. The Examiner restricted the claimed invention into Group I, including claims 1 – 14 and 21 – 30, drawn to a process for assembling groups of filters in a rod process, classified in class 131, subclass 94 and Group II, including claims 15 – 20 and 31 – 34, drawn to an apparatus for assembling groups of filter segments in a rod process, classified in class 131, subclass 94.

The Examiner asserted that the inventions were related as process and apparatus for its practice, and that the inventions are distinct from each other under M.P.E.P. § 806.05(e) because the "apparatus can be used to assemble candy cigarettes or any multi-segment cylindrical object."

Applicants respectfully submit that the Examiner has omitted one of the two criteria for a proper restriction requirement now established by the U.S. Patent and Trademark Office policy. That is, as set forth in M.P.E.P. § 803, "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if the restriction requirement were not required.

While the Examiner has alleged a possible distinction between the two identified groups of invention, the Examiner has not shown that a concurrent examination of these groups, and each species, would present a "serious burden." In fact, the Examiner has acknowledged that the individual groups would be classified, not only the same Class 162, but also the same Subclass 94, and there is no appropriate statement that the search areas required to examine the invention of group I would not overlap into the search areas for examining the invention of group II, and vice versa. Thus, Applicants respectfully submit that the search for the combination of features recited in the claims of the above-noted groups and the individual species, if not totally co-extensive, would appear to have a very substantial degree of overlap.
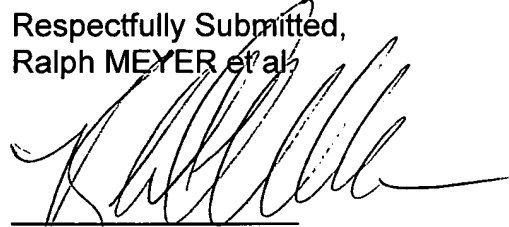
Because the search for each group and species of invention is substantially the same, Applicants submit that no undue or serious burden would be presented in concurrently examining Groups I and II. Thus, for the above-

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noted reasons, and consistent with the office policy set forth above in M.P.E.P. §

803, Applicants respectfully request that the Examiner reconsider and withdraw

the restriction and species requirement in this application.

For all of the above reasons, the Examiner's restriction is believed to be

improper. Nevertheless, Applicants have elected, with traverse, the invention

defined by Group II, including claims 15 – 20 and 31 – 34, in the event that the

Examiner chooses not to reconsider and withdraw the restriction or species

requirement.

Should the Examiner have any questions or comments, he is invited to

contact the undersigned at the telephone number listed below.

Respectfully Submitted,
Ralph MEYER et al

Neil F. Greenblum
Reg. No. 28,394

Robert W. Mueller
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December 21, 2005
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